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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,882	03/15/2004	Satoshi Aramaki	Q80300	8336

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

FIDEI, DAVID

ART UNIT PAPER NUMBER

3728

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,882

Applicant(s)

ARAMAKI, SATOSHI

Examiner

David T. Fidei

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-10,12-15,17-22,24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15,17-22 and 24 is/are allowed.
- 6) ☒ Claim(s) 1,2,5-7,12,13 and 25 is/are rejected.
- 7) ☒ Claim(s) 2 and 8-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/28/06.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Drawings

1. Figures 3-5 must be designated by the legend --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 5-7, 12 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese document 64-11964. In the embodiments of figures 6-8 there is disclosed a case comprising a containing part defined by walls 6, 7, 1 and a bottom wall by what appears to be 4. A lid part 5 is provided on an opening that includes a lid part projection 15 formed at least in part on an inner surface of the lid part that interlocks with locking portion 14. As shown in figure 7, at least the outermost interlocking portions appear closer to the corners than the middle portion of the containing part opening portion.

As to claim 2, it is a matter of convention as to what one considers a "front face" in as much as is claimed. Considering either of walls 7 defining a front face of the containing part, the limitations of claim 2 appear satisfied.

As to claims 5 and 7, The projections appear to have a rectangular shape in cross-section along a vertical axis, e.g., note the cross-sectional shape of 15 shown in figure 8.

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As to claims 14 and 25, the width of the projection part 15 depicted in figure 7 running along edge 8 is substantially greater than the height.

As to claim 6, lid 5 is hinged at an upper rear face of the containing part at 3. Locking portions 15, 14 are closer to an upper front corner of the containing part and a lower front corner of the lid than to a middle portion of the containing part and lid part along the wall containing the locking portions.

As to claim 12, a "second hinge" is between walls 1 and 4 that is not along hinge 3.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese document 64-11964. The difference between claim 13 and Japanese document 64-11964 resides in a width and height of the first projection at least equal to a width and height of the second projection.

It would have been an obvious matter of design choice to construct a width and height of the first projection at least equal to a width and height of the second projection, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). Also, it has been held that where the only difference between the prior art device and the claimed device was a recitation of relative dimensions, the claimed device was not patentably distinct from the prior art device, Gardner v. TED Systems, Inc., 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. Denied, 469 U.S. 830, 2325 USPQ 232 (1984), see M.P.E.P. 2144.04 (IV).

Allowable Subject Matter

6. Claims 3 and 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 15, 17-22 and 24 allowed.

The following is a statement of reasons for the indication of allowable subject matter: Claims 15, 17-22 and 24 employ “means” plus function language as provided by 35 U.S.C. 112, sixth paragraph. Applicant refers the Examiner to the projections as shown by elements 6a, 6b in Figures 1 and 2 and elements 16a and 16b in Figures 6, 7 and 10. The elements are described on, for example, page 10, lines 10-15, page 11, lines 16- 21 and page 18, lines 11-21. This subject matter is considered as defined by the means claim language that defines over the prior art.

Response to Arguments

8. Applicant's arguments have been fully considered but they are not persuasive to the extent as applied to the above rejections/objection.

Applicant's clarification of “related art” being in-house knowledge is appreciated. However, the Examiner is aware of nothing sanctioning this terminology for use in defining subject matter known to applicant's at the time of the invention. Prior art embodies subject matter known to the inventor/inventors at the time of invention and carries, to the best of the Examiner's knowledge, no distinction in an original disclosure as to what the source of that knowledge may be. Sated otherwise, it is not seen why prior art would not encompass in house knowledge. Applicants' apparent objection to the use of the terminology “prior art” is believed to be without substance for this reason. Accordingly, the objection is repeated and resolvable by petition since the holding is an objection.

Applicant's arguments with respect to claims 1, 2, 5-7, 12 and 25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the Examiner concerning the merits of the claims should be directed to David T. Fidei whose telephone number is (571) 272-4553. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "David T. Fidei".

David T. Fidei
Primary Examiner
Art Unit 3728

dtf

November 27, 2006